

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS MONTERROSO,

Defendant.

Case No. 15-cr-0335 RMW

DETENTION ORDER

Hearing: December 8, 2015

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), the court on December 8, 2015, held a detention hearing to determine whether any condition or combination of conditions will reasonably assure the appearance of the defendant Monterroso as required and the safety of any other person and the community. Defendant Monterroso was present, represented by his attorney AFD Rita Bosworth. The United States was represented by Assistant U.S. Attorney John Bostic. Monterroso is charged by indictment with illegal reentry after deportation, in violation of title 8 U.S.C. § 1326. The defendant is presumed innocent of the charge and has entered a not guilty plea.

The detention hearing was held publicly. Both parties were advised of their opportunity to call witnesses and to present evidence. Both parties may appeal this detention order to the assigned Senior District Court Judge, Ron Whyte.

1 I. PRESUMPTIONS

2 No presumption of detention applies in this case.

3 II. WRITTEN FINDINGS OF FACT AND STATEMENT OF REASONS

4 The Court has taken into account the factors set out in 18 U.S.C. § 3142(g) and all of
5 the information submitted at the hearing (via proffers from counsel) and finds as follows:


6 The Court adopts the facts set forth in the Pretrial Services (PTS) Report prepared
7 December 7, 2015, supplemented by information presented at the hearing. The Court finds
8 by more than a preponderance of the evidence that the defendant poses a risk of non-
9 appearance and that no condition or combination of conditions can reasonably mitigate the
10 risk. The following factors establish the risk of non-appearance: multiple failures to appear;
11 bench warrants issued; bail forfeited on three occasions; report of absconding while on
12 parole supervision; and lack of verified employment. Considering these same factors, plus
13 a felony conviction for assault with a firearm on a person in 2011, the Court is concerned
14 about the danger to the community that would be caused by release of the defendant.
15 However, the Court finds that the government has not established by more than clear and
16 convincing evidence that no combination of conditions could be imposed to mitigate the
17 risk. In sum, the Court orders the defendant detained due to the high risk of non-
18 appearance.

19 III. DETENTION DIRECTIONS

20 The defendant is committed to the custody of the Attorney General or his designated
21 representative for confinement in a corrections facility separate to the extent practicable
22 from persons awaiting or serving sentences or being held in custody pending appeal. The
23 defendant shall be afforded a reasonable opportunity for private consultation with defense
24 counsel. On order of a court of the United States or on the request of an attorney for the
25 Government, the person in charge of the corrections facility must deliver the defendant to
26 the United States Marshal for the purpose of an appearance in connection with a court
27 proceeding.

1
2 IT IS SO ORDERED.

3 Date: December 8, 2015

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Nathanael M. Cousins
United States Magistrate Judge